

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

GAVIN GRIMM,)	
)	
Plaintiff,)	
)	
v.)	Civil Case No. 4:15-cv-54-AWA-DEM
)	
GLOUCESTER COUNTY SCHOOL)	
BOARD,)	
)	
Defendant.)	
_____)	

**JOINT MOTION
TO DEFER FILING OF BILL OF COSTS AND PETITION FOR FEES**

Pursuant to Federal Rule of Civil Procedure 54(d), Plaintiff Gavin Grimm and Defendant Gloucester County School Board respectfully request an order deferring the filing of Plaintiff's bill of costs and petition for fees pending resolution of Defendant's appeal from this Court's final judgment. Specifically, the parties request that the Court enter an order directing Plaintiff's bill of costs and petition for fees to be filed within 21 days after the Fourth Circuit issues its mandate. In support of this Joint Motion the parties state as follows:

1. On August 9, 2019, this Court entered a final judgment, awarding Plaintiff declaratory relief, injunctive relief, nominal damages, and reasonable costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
2. Defendant intends to appeal the Court's final judgment.
3. Under Federal Rule of Civil Procedure 54(d)(2), Plaintiff's petition for fees "must be filed no later than 14 days after the entry of judgment" "[u]nless a statute or a court order provides otherwise." Similarly, under Local Civil Rule 54(d)(1), Plaintiff's bill of costs must be

filed “within fourteen (14) days from the entry of judgment, unless such time is extended by order of the Court.”

4. Rule 54(d) vests the district court with wide discretion to defer the bill of costs and petition for fees until after resolution of any appeals. “In its notes regarding the 1993 amendments to Rule 54, the Advisory Committee has suggested that ‘[i]f an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved.’” *Certusview Techs., LLC v. S & N Locating Servs., LLC*, No. 2:13CV346, 2015 WL 3466842, at *2 (E.D. Va. June 1, 2015) (quoting Fed. R. Civ. P. 54 advisory committee’s note (1993 amendments)). “And the Advisory Committee has also suggested that ‘if the claim for fees involves substantial issues or is likely to be affected by the appellate decision, the district court may prefer to defer consideration of the claim for fees until after the appeal is resolved.’” *Id.* (quoting Fed. R. Civ. P. 58 advisory committee’s note (1993 amendments)). “Furthermore, like with attorneys’ fees motions, a court has discretion to postpone the taxation of costs pending the resolution of an appeal.” *BASF Corp. v. SNF Holding Co.*, No. 4:17-CV-251, 2019 WL 3554699, at *11 (S.D. Ga. Aug. 5, 2019) (internal quotation marks omitted).

5. In this case, the Parties agree that interests of judicial economy would be best served by deferring the filing of Plaintiff’s bill of costs and petition for fees until after the resolution of Defendant’s forthcoming appeal to the Fourth Circuit. Specifically, the parties request that the Court enter an order directing Plaintiff’s bill of costs and petition for fees to be filed within 21 days after the Fourth Circuit issues its mandate.

Dated: August 16, 2019

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF VIRGINIA, INC.

GLOUCESTER COUNTY SCHOOL BOARD
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of August 2019, I filed the foregoing Joint Motion to Defer Filing of Bill of Costs and Petition for Fees with the Clerk of the Court using the CM/ECF system, which will automatically serve electronic copies upon all counsel of record.

/s/ Eden B. Heilman

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